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S.C. LEGISLATIVE COUNCIL

To publish proposed regulations the following verification must be signed and returned to the Clerk of the State Register

VERIFICATION

This certifies that I have reviewed the text of this document and determined that, with the stricken text deleted and the new text incorporated, the text reads as the agency intends it to read.

July 15, 2010 *Jocelyn Boyd*
Date Reviewing Officer

Document No. 4137

**PUBLIC SERVICE COMMISSION
CHAPTER 103**

Statutory Authority: 1976 Code Section 58-3-140 (Supp. 2008)

103-331. Customer Deposits
103-336. Deposit Retention

Preamble:

The Public Service Commission of South Carolina (Commission) is amending Regulation 103-331(Customer Deposits) to delete references to "thirty-day" arrears to reflect current billing practices of electric utilities. For example, some electric bills are due within twenty-five days from the date of the bill. Hence, references to "thirty-day" arrears in Regulation 103-331 do not reflect the current billing practices of electrical utilities. Also, Regulation 103-331 is amended to allow an electrical utility to require a deposit from a non-residential customer when such customer or its parent company is experiencing financial difficulties. Also, Regulation 103-331 is amended to make certain grammatical changes.

Regulation 103-336 (Deposit Retention) is amended to delete references to "thirty-day" arrears to reflect current billing practices of electrical utilities. Further, this Regulation is amended to state an electrical utility is not required to refund a deposit if a non-residential customer or its parent company is experiencing financial difficulties.

During a hearing conducted before the Commission regarding the partial waiver of Regulations 103-331 and 103-336, a utility employee witness testified that although a non-residential customer may be paying its electric bill on a regular basis, its financial condition with other customers or suppliers may be rapidly deteriorating and bankruptcy may be imminent. For these type customers, no charges for electric service are made until after the electricity already has been used, and the customer continues to use electricity until or after that bill becomes past due. The utility companies therefore expressed, and the Commission approved, a need for the ability to request a deposit from such non-delinquent non-residential customers, or for similar relief, and to retain the deposit longer than the two-year period provided for in Regulation 103-336, if necessary. Also, utility internal credit risk rating criteria to determine a non-residential customer's credit worthiness and to assess whether a customer should pay a deposit helps the utility avoid losses and subsequent write-offs to uncollectible accounts. In Order No. 2009-770, the Commission found that "providing the State's utilities with the tools to secure customer accounts when a customer is in financial distress benefits the utilities' general body of ratepayers."

The Notice of Drafting regarding these regulations was published on May 28, 2010 in the *State Register*.

Section-by-Section Discussion

103-331. Customer Deposits. This section is amended to delete references to "thirty-day" arrears and to allow an electrical utility to require a deposit from a non-residential customer or its parent company who is experiencing financial difficulties based on internal credit risk rating criteria. This section is also amended to make certain grammatical changes.

103-336. Deposit Retention. This section is amended to delete references to "thirty-day" arrears and to state an electrical utility is not required to return a deposit if a non-residential customer or its parent company is experiencing financial difficulties.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comments to the Public Service Commission, Clerk's Office, 101 Executive Center Drive, Columbia, South Carolina 29210. Please reference Docket Number 2010-173-E. To be considered, comments must be received no later than 4:45 p.m. on September 1, 2010. Interested members of the public and the regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Public Service Commission on Tuesday, October 26, 2010, at 2:00 p.m. in the Commission's Hearing Room, 101 Executive Center Drive, Columbia, South Carolina 29210.

Preliminary Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions.

Statement of Need and Reasonableness:

This statement of need and reasonableness was determined pursuant to S.C. Code Ann. Section 1-23-115(C)(1) through (3) and (9) through (11).

DESCRIPTION OF REGULATION:

103-331. Customer Deposits.
103-336. Deposit Retention.

Purpose: The purpose of the proposed amendments to Regulations 103-331 and 103-336 is to delete language that reflects outdated practices of electrical utilities. Also, Regulations 103-331 and 103-336 are amended to allow electrical utilities to require deposits from non-delinquent non-residential customers who are experiencing financial difficulties. Deposits from these type customers will help mitigate the utility's risk of loss. Regulation 103-336 is amended to allow an electrical utility to keep a non-residential customer's deposit if this customer is experiencing financial difficulties. Longer retention of a non-residential customer's deposit will also help mitigate the utility's risk of loss.

Legal Authority: S.C. Code Ann. Section 58-3-140 (Supp. 2008)

Plan for Implementation: The proposed regulation will take effect upon approval by the General Assembly and publication in the *State Register*.

**DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION
BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:**

The proposed amendments to Regulations 103-331 and 103-336 are needed and are beneficial because the proposed amendments reflect updated practices of electrical utilities. Also, the proposed amendments

mitigate the electrical utility's risk of loss. This is important because when non-residential customers do not pay for services they receive, other customers can potentially pay for this loss instead of the customer who received the benefit through the consumption of electricity.

DETERMINATION OF COSTS AND BENEFITS:

Although costs related to the proposed changes to the Commission's regulations are minimal, the benefits include amending regulations to reflect current practices and to mitigate the electrical utility's risk of loss for non-residential customers who could potentially fail to pay for consumed electricity.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

The regulation will have no detrimental effect on the environment or public health if the regulation is not implemented.

Statement of Rationale:

The purpose of amending Regulations 103-331 and 103-336 is to update these Regulations to reflect current utility practices. Also, the proposed amendments allow an electrical utility to require a non-residential customer to post a deposit and retain such deposit for longer than two years when this customer is experiencing financial difficulty. An electrical utility's loss is mitigated with this amended provision. There was no scientific or technical basis relied upon in the development of this regulation.

Text:

103-331. Customer Deposits.

A. Each electrical utility may require from any customer or from any prospective customer, a deposit intended to guarantee payment of bills for service, if any of the following conditions exist:

1. The customer's past payment record to an electrical utility shows delinquent payment practice, i.e., customer has had two consecutive arrears, or more than two non-consecutive arrears in the past twenty-four months, or
2. A new customer cannot demonstrate that he is a satisfactory credit risk by appropriate means including, but not limited to, a letter of good credit from an electrical utility, references which may be quickly and inexpensively checked by the Company or cannot furnish an acceptable cosigner or guarantor on the same system within the State of South Carolina to guarantee payment up to the amount of the maximum deposit, or
3. A customer has no deposit and presently is delinquent in payments, i.e., has had two consecutive arrears, or more than two non-consecutive arrears in the past twenty-four months, or

4. A customer has had his service terminated for non-payment or fraudulent use, or

5. A non-residential customer or its parent company is experiencing financial difficulties as determined by an electrical utility using its respective internal credit risk rating criteria (even if the customer has not yet defaulted or caused a default on a payment obligation to the utility) and has not negotiated an alternative payment plan designed to mitigate the utility's risk of loss. The electrical utility may use a variety of security options other than the payment of a two-month cash deposit, including but not limited to accelerated payment plans, surety bonds, bank letters of credit or some combination of the above. All electrical utilities engaging in negotiated payment solutions must provide a copy of their respective internal credit risk rating criteria upon request by the Office of Regulatory Staff.

B. If the electrical utility elects to require a deposit under Subsection (A)(5) of this Rule, then the electrical utility shall inform the affected customer of the provisions of this Rule.

103-336. Deposit Retention.

A. Deposit shall be refunded completely with interest after two years unless the customer has had two consecutive arrears, or more than two non-consecutive arrears, in the past twenty-four months.

B. An electrical utility shall not be required to refund the deposit if a non-residential customer or its parent company is experiencing financial difficulties as determined by an electrical utility using its respective internal credit risk rating criteria and/or if bankruptcy may be imminent, even though the customer continues to make billed payments in timely manner.